
Office of the Public Defender

OFFICE OF THE PUBLIC DEFENDER / DEPARTMENT OF COMMUNITY AND HUMAN SERVICES

ISSUES AND PRIORITIES

King County Code 2.60.101 provides that “It is the intention of King County to make publicly financed legal services available to the indigent and the near indigent in all matters when there may be some factual likelihood that he may be deprived of his liberty pursuant to the laws of the state of Washington or King County. It is also the intention of King County to make such services available in an efficient manner which provides adequate representation at reasonable cost to the county.” The responsibilities of the Office of the Public Defender (OPD) include screening clients for financial eligibility for indigent defense services, assigning cases to contracted attorneys, and negotiating and administering contracts with non-profit public defense law firms. The contract defense firms provide the majority of defense services to King County’s indigent population.

Last year, the 2009 Executive Proposed Budget included \$5.82 million in reductions to the budget for defense contractors. Of this reduction, \$4.1 million was driven by a decline in caseload reflective of a projected 8 percent decline in felony and misdemeanor credits, compounded by the impact of the Prosecutor’s decision to revise the Filing and Disposition Standards such that low level drug and property cases are filed in District Court and paid on a calendar attorney basis. An additional \$1.7 million in reductions to the contracts were the result of adjustments to the contract funding model. In response to concerns raised by the defense contractors, council placed a proviso in the 2009 Adopted Budget requiring representatives from the Department of Community and Human Services, the Office of Management and Budget, OPD and the defense services contractors meet to review the contract funding model. Beginning in December 2008, all parties engaged in an intense and collaborative effort that resulted in a revised contract payment model containing 14 recommendations that were adopted by King County Council Motion 13004 in June 2009. The financial effect of the executive’s recommendations was to add \$2.4 million to the defense contracts, or \$700,000 more than had been reduced through model updates originally proposed by the executive.

While council reviewed the proviso response, the defense contractors expressed concerns that as a result of the Prosecutor’s change in filing standards, the least burdensome cases had been removed from the typical felony attorneys’ caseload, resulting in a more difficult mix of cases, i.e. while an attorney would still be responsible for the same number of cases in his or her caseload, the contractors stated that the typical caseload now has proportionally more serious and difficult cases, making an attorneys’ caseload more difficult to manage. The contractors advocated for a case weighting solution that acknowledged that while the total felony caseload was smaller it was more complex and time consuming. The interim case weighting method adopted by King County Council Ordinance 16542 increased the number of felony case credits assigned to certain felonies: increasing from one to 10 credits for homicides and one to five credits for sex offense cases with potential indeterminate life sentence, with additional funding for felony cases based on the number of attorney hours worked. The ordinance also called for a case weighting study of public defense caseloads to be completed by April 2010. The interim case weighting methodology added over \$800,000 to the defense contractors’ budget in 2009 and would have increased the 2010 budget by an annualized \$1.6 million. Given the current fiscal crisis facing the General Fund and the need for policy makers to consider budget increases in the larger context of budget reductions, the 2010 Executive Proposed Budget does not include funding for interim case weighting as part of the status quo budget. Instead, the budget maintains the level of service based on the proviso response, which includes the revised fund model,

maintains the same level of caseloads funded in the 2009 budget, and includes the reductions based on recent annexations. The 2010 Executive Proposed Budget also brings the defense contractors into parity with the Prosecuting Attorney's Office in January 2010, rather than July of 2010, which results in a roughly \$500,000 increase over the previous budget which assumed a July parity schedule. This change makes a compelling case for the defense service contracts to return to a calendar year basis. The executive supports the case weighting study currently underway.

In 2009, the State Legislature enabled King County to supplant up to 50 percent of the revenues generated by the Mental Illness and Drug Dependency (MIDD) sales tax. The legislation ramps down the amount that can be supplanted by 10 percent per year over five years. The 2010 Executive Proposed Budget assumes that 30 percent of MIDD revenues in 2010 will be redirected to support existing mental health and chemical dependency programs. To reduce the burden on the General Fund, OPD's contracted public defense costs for Adult Drug Court (ADC), Mental Health Court (MHC), Juvenile Drug Diversion Court (JDDC) and Family Treatment Court (FTC) will be shifted to the support of MIDD for at least the next three years.

**2010 Proposed Budget for Office of the Public Defender
0010/0950**

Code	Item	Description	Expenditures	FTEs *	TLTs
Program Area					
LSJ					
		2009 Adopted	18,397,561	19.75	0.00
		Status Quo**	16,775,369	0.00	0.00
		Status Quo Budget	35,172,930	19.75	0.00
		Contra Add Back	3,180,530		
Annexations/Incorporations					
AX04		North Highline Annexation (-\$343 Revenue)	(322,247)	0.00	0.00
			(322,247)	0.00	0.00
Cost Increases					
TA05		Contract Model Updates	472,532	0.00	0.00
			472,532	0.00	0.00
MIDD Supplantation					
MI01		MIDD Supplantation of Adult Drug Diversion Court	(752,270)	0.00	0.00
MI03		MIDD Supplantation of Mental Health Court	(330,102)	0.00	0.00
MI04		MIDD Supplantation of Family Treatment Court	(169,866)	0.00	0.00
			(1,252,238)	0.00	0.00
New Revenue					
AS01		City of Redmond Indigency Screening (\$10,440 Revenue)	0	0.00	0.00
			0	0.00	0.00
Operational Shutdown Savings					
CR45		Operational Shutdown Savings Contra	(593,234)	0.00	0.00
			(593,234)	0.00	0.00
Technical Adjustments					
TA50		Revenue Adjustment of \$316,210	0	0.00	0.00
CR01		Flexible Benefits	(11,280)	0.00	0.00
CR07		Technology Services Operations & Maintenance Charge	84	0.00	0.00
CR08		Technology Services Infrastructure Charge	(33,715)	0.00	0.00
CR10		Office of Information Resource Mgmt Ops Charge/Rebate	(1,890)	0.00	0.00
CR11		Telecommunications Services	(624)	0.00	0.00
CR12		Telecommunications Overhead	(1,192)	0.00	0.00
CR14		Facilities Management Space Charge	(580)	0.00	0.00
CR21		Debt Service Adjustment	526	0.00	0.00
CR22		Long Term Leases	(2,340)	0.00	0.00
CR25		Financial Services Charge	(3,397)	0.00	0.00
CR26		Retirement Rate Adjustment	(32,766)	0.00	0.00
CR27		Industrial Insurance Rate Adjustment	(191)	0.00	0.00
CR35		Underexpenditure Contra	15,399	0.00	0.00
CR36		Property Services Lease Administration Fee	(410)	0.00	0.00
CR37		Facilities Management Strategic Initiative	98	0.00	0.00
CR39		COLA Adjustment	(658)	0.00	0.00
CR40		Merit Adjustment	(1,059)	0.00	0.00
			(73,995)	0.00	0.00
		Total Change Items in 2010	(1,769,182)	0.00	0.00

Office of the Public Defender

PROGRAM HIGHLIGHTS

The total 2010 Executive Proposed Budget for the Office of the Public Defender is \$36,584,278 and includes 19.75 FTEs. The bulk of the agency's budget is for contracted legal services with four non-profit agencies and a panel of independent attorneys.

Annexations

North Highline Annexations – (\$322,247) Expenditure / (\$343) Revenue. On August 18, 2009, the residents of the southern portion of North Highline voted to annex to the City of Burien. The annexation is expected to be effective March 2, 2010. Because responsibility for providing local services to the approximately 14,350 residents of the area will shift to Burien, King County will experience savings across multiple agencies. The annexation will generate \$322,247 in savings for OPD due to a reduction in the number of county responsible misdemeanants requiring indigent defense from this area during the last ten months of 2010.

Cost Increases

Model Updates – \$472,532. This proposal updates the 2010 contract payment model to account for updates to the calendar staffing component to reflect Superior and District Court calendar changes, as well as updates to the senior salary component of the contract model to adjust for parity with King County prosecutors. The Executive Proposed model brings the defense contractors into parity with the Prosecuting Attorney's Office effective January 1, 2010, rather than July 1, 2010. This change represents the executive's preference that the defense contracts return to the calendar year, rather than the July through June calendar proposed by council in the 2009 Adopted Budget.

Operational Shutdown Savings

Operational Shutdown Savings Contra – (\$593,234). In the face of the severe fiscal challenges across all county funds, the 2010 Executive Proposed Budget includes savings assumptions in an effort to preserve direct services. For 2009, savings were achieved through the implementation of a ten-day building and/or operational closure program, resulting in labor furloughs. The 2010 budget is balanced across all funds assuming that a similar level of savings will be achieved in each agency based on the furlough eligible employees as was adopted for 2009, including 2009 County Council amendments. Savings similar to what was achieved in 2009 will be sought from independent contractors providing indigent defense services for the county. The specific details of the 2010 plan are still under development, and discussions with labor unions and individual agencies are on-going. Specific plans describing how the 2010 savings will be achieved will be transmitted to the County Council in the coming weeks. To the extent that savings, from labor or other expenses, cannot be fully achieved through temporary and short term building and/or operational closures, the plan will describe additional programmatic reductions and the elimination of additional positions.

MIDD Supplantation

MIDD Supplantation of Adult Drug Court – (\$752,270). This proposal shifts support for the contracted public defense services associated with Adult Drug Court from the General Fund to a MIDD appropriation unit. The expenditure authority for this program will now reside in the MIDD Fund.

MIDD Supplantation of Mental Health Court – (\$330,102). This proposal shifts support for the contracted public defense services associated with Mental Health Court from the General Fund to a MIDD appropriation unit. The expenditure authority for this program will now reside in the MIDD Fund.

MIDD Supplantation of Family Treatment Court – (\$169,866). This proposal shifts support for the contracted public defense services associated with Family Treatment Court from the General Fund to a MIDD appropriation unit. The expenditure authority for this program will now reside in the MIDD Fund.

New Revenue

City of Redmond Indigency Screening – \$10,440 Revenue. In mid July 2009, the City of Redmond entered into an interlocal agreement with OPD to provide indigency screening of defendants in the City of Redmond Municipal Court, which will generate \$10,440 in new revenue in 2010.

Technical Adjustments

Central Rates – (\$73,995). This series of adjustments captures the net effect of countywide charges and results in a \$73,995 reduction in charges to OPD. These reductions reflect efficiencies created by Executive agencies to reduce the cost of services they provide to other county agencies. These changes reflect the County Executive's commitment to creating an efficient government and making administrative reductions before direct service reductions. The efforts of central rate agencies to reduce costs are integral to the County Executive's strategy to address the General Fund deficit, and benefit all county agencies.

IT Capital Projects

This IT project is budgeted separately in Capital Fund 3771 and is included here to provide a full representation of budget changes related to OPD.

IT Equipment Replacement – \$8,300. This proposal will allow OPD to replace IT equipment at end-of-life and as warranties expire. This proposal was based on an Equipment Replacement Plan that was developed to support OPD's core services and performance measures at the current level. Not providing these services would mean that OPD staff would not be as productive due to slower systems and more breakdowns.